



**US ARMY CORPS
OF ENGINEERS
St. Louis District
Gateway to Excellence**

Public Notice

Reply To:
U.S. Army Corps of Engineers
Attn: CEMVS-OD-F
1222 Spruce Street
St. Louis, MO 63103-2833

Public Notice No.

P-2669

Public Notice Date

April 14, 2008

Expiration Date

May 5, 2008

Postmaster Please Post Conspicuously Until:

Interested parties are hereby notified that a request has been received for an **After-the-Fact** Department of the Army permit to approve the excavation and discharge of fill material in an unnamed intermittent tributary to Turner Branch, a jurisdictional waters of the United States regulated under Section 404 of the Clean Water Act, as described below and shown on the attached figures.

COMMENTS AND ADDITIONAL INFORMATION: Comments on the described work should reference the U.S. Army Corps of Engineers File Number shown above and must reach this office no later than the above expiration date of the Public Notice to become part of the record and be considered in the decision. Comments should be mailed to the following address:

U.S. Army Corps of Engineers
ATTN: CEMVS-OD-F (Charles Frerker)
1222 Spruce Street
St. Louis, Missouri 63103-2833

APPLICANT: Mr. Gabriel G. Friedel, RR 1, Post Office Box 128, Batchtown, Illinois 62006 (618) 396-2538.

LOCATION: The unauthorized activity site is located in the Southwest ¼ of Section 32, Township 11 South, Range 2 West, near Batchtown, Calhoun County, Illinois (See Attached Location Map). Turner Branch is a primary tributary to the Mississippi River, a designated navigable water of the United States.

PROJECT DESCRIPTION: The applicant requests an **After-the-Fact** Department of the Army permit for the unauthorized clearing, excavation and discharge of fill material below the ordinary high water elevation of a regulated "Waters of the United States". The previously completed unauthorized activity involved the construction of an approximate 150-feet-long by 10-feet-high by 100-feet-wide channel blockage structure, which serves as a dam to pond approximately two acres of water in an unnamed, intermittent tributary to Turner Branch. The dam is approximately 100-feet-wide at the base with a 30-feet-wide crown. The borrow material to construct the dam came from within the unnamed tributary and adjacent areas that are now inundated. The applicant incorporated an emergency spillway and a 2-foot-diameter culvert to prevent breaching of the constructed dam. The applicant states the dam and surrounding construction areas were seeded in alfalfa and orchard grass, and then covered with a layer of straw to prevent erosion, immediately after the project was constructed. The unauthorized clearing, excavation and filling activities occurred during the fall of 2006. The activity was confirmed as violations of Sections 301 [33 U.S.C. 1311] and 404 [33 U.S.C. 1344] of the Clean Water Act (CWA) based on a field inspection completed by Charles Frerker, Regulatory Project Manager. The impacted portion of the unnamed, intermittent tributary to Turner Hollow Branch possessed a top-of-bank channel width of approximately 6 to 8-feet and an approximate 3 to 4 feet wide channel at the ordinary high water elevation. These distances are based on an evaluation of the unnamed tributary's bank widths upstream and downstream of the unauthorized impact area. The upstream and downstream portions of the unnamed tributary possess a gravel/cobble substrate with varying width riparian

corridors. Seasonal pooling occurs between riffle features that are present in the meandering flow path upstream, within and below the impacted channel. Based on aerial photographs and topographic maps, approximately 725 linear feet of this unnamed, intermittent tributary was impacted by excavation and discharge activities. In summary, the applicant requests **After-the-Fact** authorization for the previous excavation, discharge and inundation activities that impacted approximately 725 linear feet of the unnamed intermittent tributary to Turner Hollow Branch. Additional pictures of the constructed pond and dam can be viewed by visiting <http://www.nvs.usace.army.mil/ConOps/permits/pn.htm> and clicking on P-2669.

ADDITIONAL INFORMATION: Additional information may be obtained by contacting Charles Frerker, Regulatory Project Manager, U.S. Army Corps of Engineers at electronic mail address: charles.f.frerker@usace.army.mil

AUTHORITY: This **After-the-Fact** permit review will be processed under the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344).

WATER QUALITY CERTIFICATION: This public notice provides documentation to the Illinois Environmental Protection Agency (IEPA) for water quality certification, or waiver thereof, for the already completed activities in accordance with Section 401 of the Clean Water Act. Issuance of a Certification or waiver would indicate the IEPA believes the activities have not violated applicable water quality standards. The review by the IEPA is conducted in accordance with the Illinois water quality standards under 35 Illinois Administrative Code Subtitle C. The water quality standards provide for the IEPA to review individual projects by providing an antidegradation assessment, which includes an evaluation of alternatives to any proposed increase in pollutant loading that may result from this activity. The "Fact Sheet" containing the antidegradation assessment for this proposed project may be found on the IEPA's web site, at www.epa.state.il.us/public-notices/. In the event that the IEPA is unable to publish the "Fact Sheet" corresponding to the timeframe of this Joint Public Notice, a separate public notice and "Fact Sheet" will be published by the IEPA at the web site identified above. You may also obtain a copy of the "Fact Sheet" by contacting the IEPA at the address or telephone number shown below.

Written comments specifically concerning possible impacts to water quality should be addressed to:

Illinois Environmental Protection Agency
Bureau of Water
Watershed Management Section
1021 N. Grand Avenue East
P.O. Box 19276
Springfield, Illinois 62794-9276

A copy of all written comments should also be provided to the Corps of Engineers. If you have any questions, please contact the IEPA at (217) 782-3362.

SECTION 404 (b)(1) EVALUATION: The impact of the activity on the public interest will be evaluated in accordance with the Missouri Department of Natural Resources, Water Pollution Control Program guidelines and the Illinois Environmental Protection Agency's guidelines pursuant to Section 404 (b)(1) of the Clean Water Act.

IMPACTS TO WATERS OF ILLINOIS: By issuance of this public notice, the project plans are considered submitted to the Illinois Department of Natural Resources, Office of Water Resources for state approval of the proposed work in accordance with "an Act in relation to the regulation of the rivers, lakes and streams of the State of Illinois" (Ill. Rev. Stat.; Chap. 19, par 52 et seq.). Written comments concerning possible impacts to waters of Illinois should be addressed to Illinois Department of Natural Resources, Office of Water Resources, 3215 Executive Park Drive, Post Office Box 19484, Springfield, Illinois, 62794-9484, with copy provided to the Corps of Engineers.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a

public hearing be held to consider this application. Request for public hearings shall state, with particularity, the reasons for holding the public hearing.


ENDANGERED SPECIES: Based on the timeframe when the applicant cleared the riparian tree species (September - October), a preliminary determination, in compliance with the Endangered Species Act as amended, has been made that the unauthorized clearing and filling activities likely did not adversely affect species designated as threatened or endangered, or adversely affect critical habitat. In order to complete our evaluation, this public notice solicits further comments from the U.S. Fish and Wildlife Service and other interested agencies and individuals.

CULTURAL RESOURCES: The St. Louis District will evaluate information provided by the State Historic Preservation Officer and the public in response to this public notice and we may conduct, or require a reconnaissance survey of the project area.

EVALUATION: The decision whether to issue this **After-the-Fact** permit will be based on an evaluation of the probable impact including cumulative impacts of the completed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which may reasonably be expected to accrue from the described activity, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the described activity will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion, and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership and, in general, the needs and welfare of the people.

The U.S. Army Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of these proposed activities. Any comments received will be considered by the U.S. Army Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

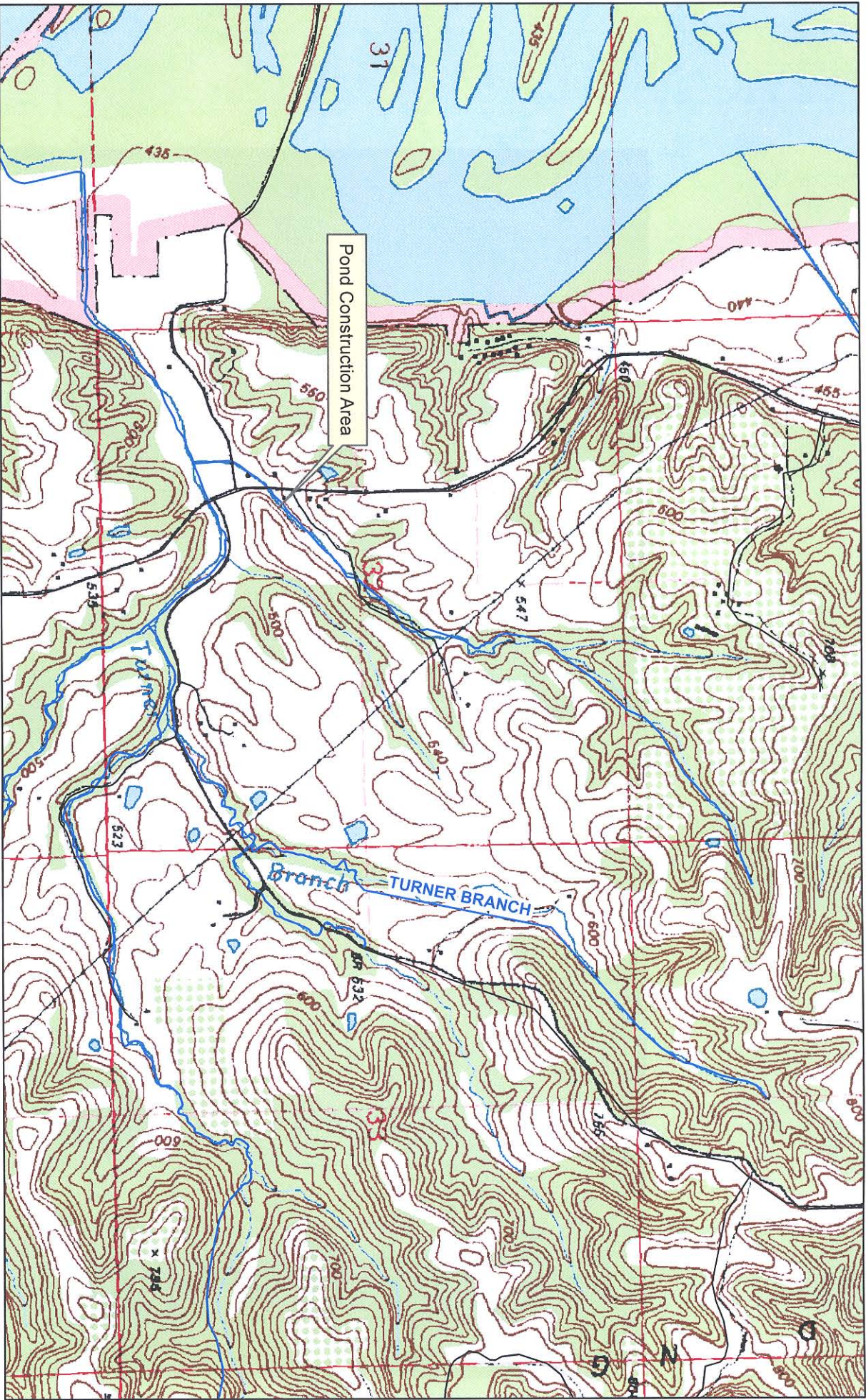
In accordance with 33 CFR 325.3, it is presumed that all interested parties and agencies will wish to respond to public notices; therefore, a lack of response will be interpreted as meaning that there is no objection to the proposed project.


jdm
Danny D. McClendon
Chief, Regulatory Branch

Attachments

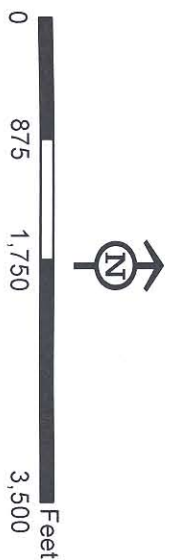
NOTICE TO POSTMASTERS:

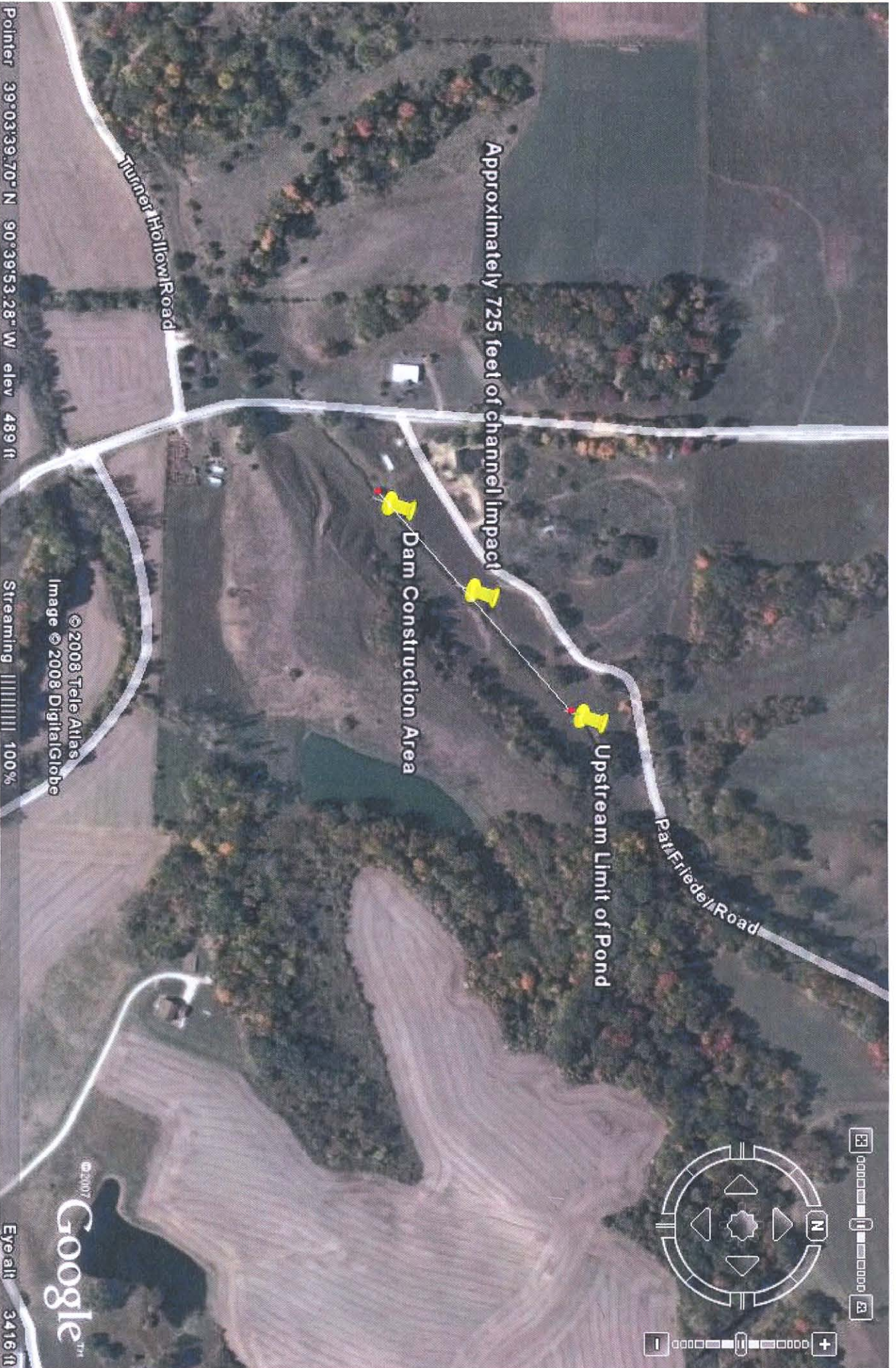
It is requested that this public notice be conspicuously and continually placed for 21 days from the date of issuance.



- Legend**
- Stream
 - Street
 - State Hwy
 - US Hwy
 - Interstate

P-2669
Project Location Map - MVS-2008-11
Batchtown, Calhoun County, Illinois





Pointer 39°03'39.70" N 90°39'53.28" W elev 489 ft

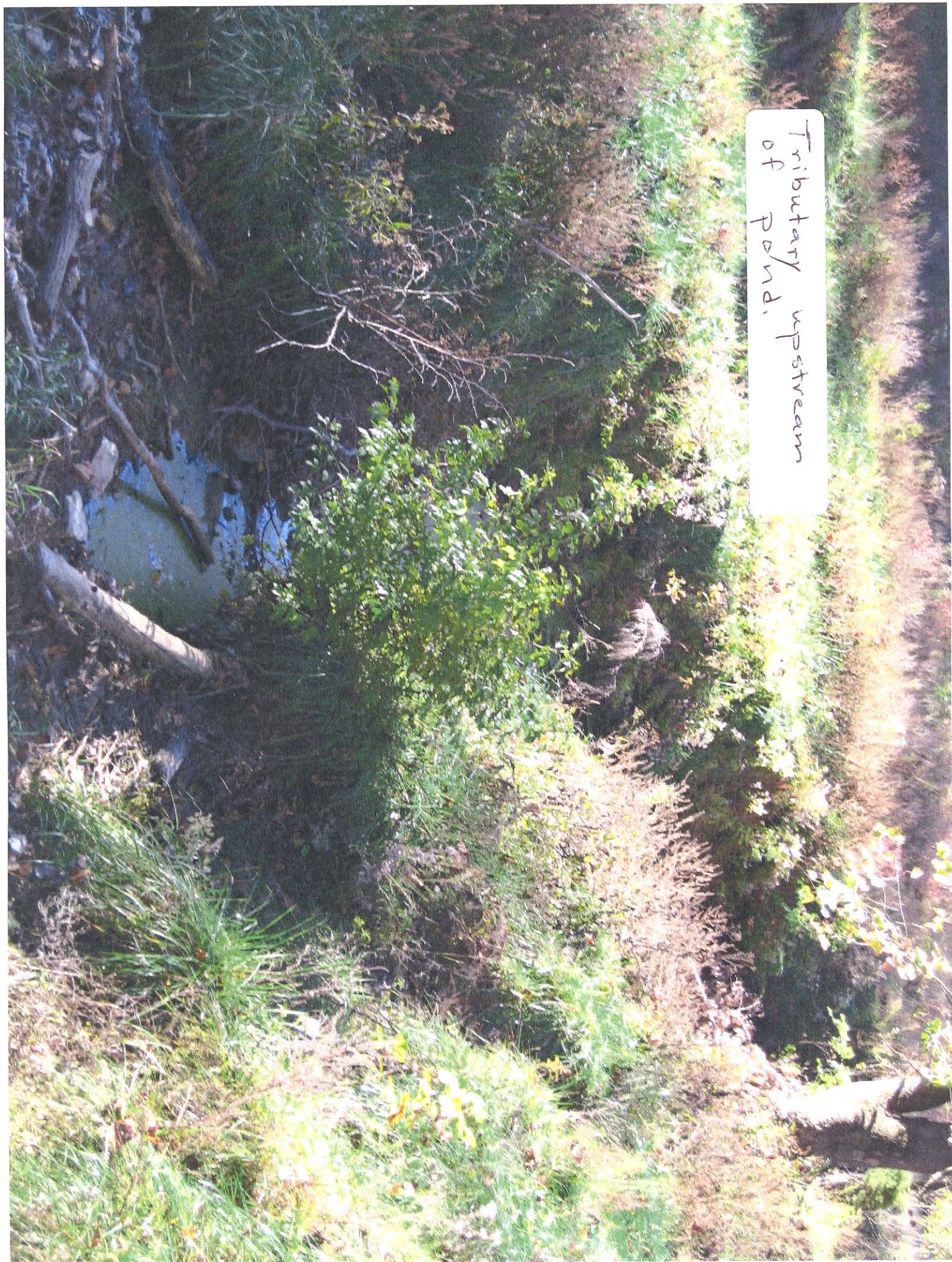
©2008 Tele Atlas
Image © 2008 DigitalGlobe

Streaming 100%

©2007
Google™

Eye alt 3416 ft

Tributary upstream
of Pond.

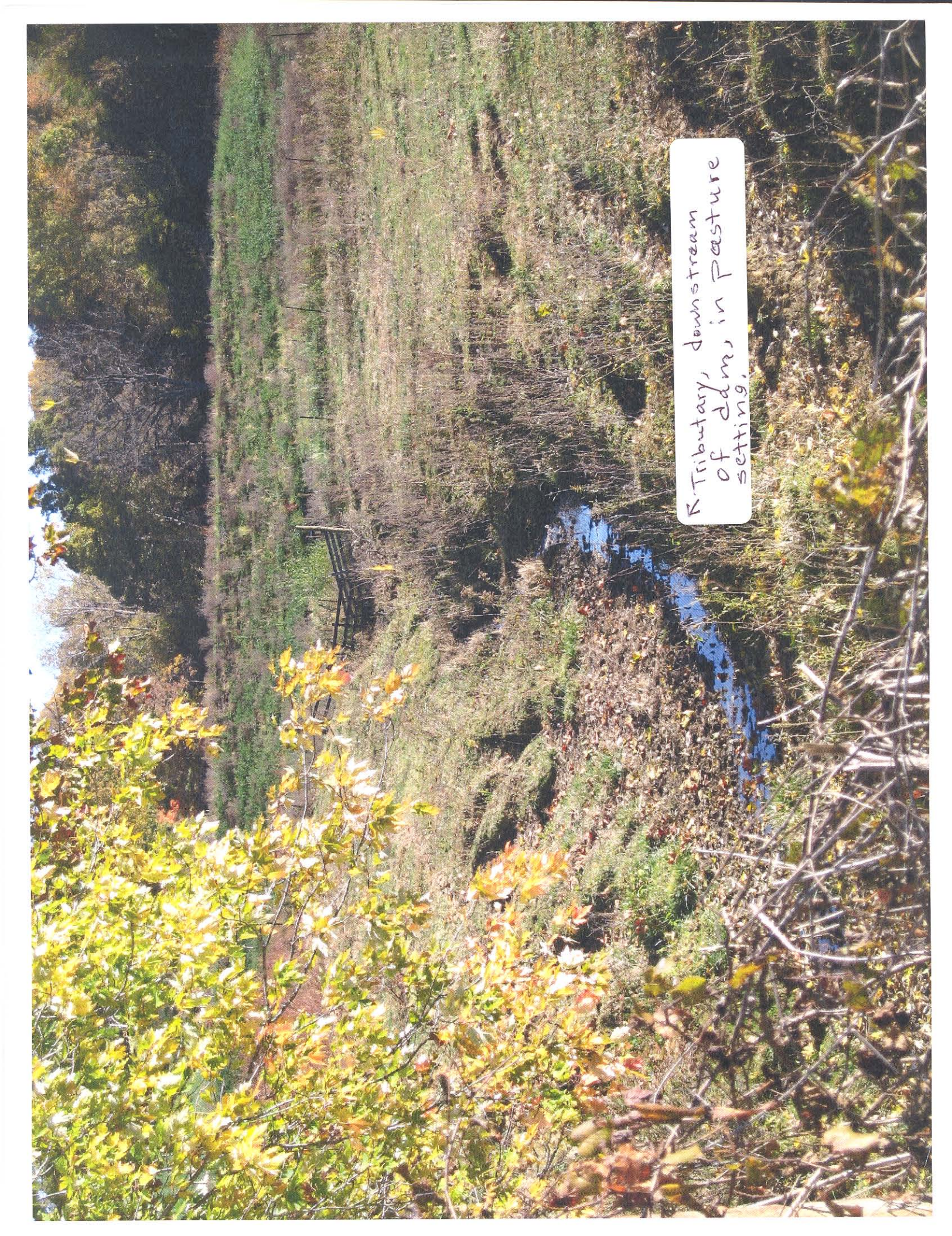


Constructed pond
and dam.



Ponded water and
dam.



A photograph of a stream flowing through a grassy field. The stream is narrow and flows from the upper right towards the lower left. The surrounding area is covered in green grass and some dry, brown vegetation. In the background, there are trees with green and yellow leaves. In the foreground, there are branches with yellow and orange leaves, suggesting an autumn setting. A white rectangular box with black text is overlaid on the right side of the image.

R. Tributary, downstream
of dam, in pasture
setting.